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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,245	09/27/2002	Werner J. Windbergs	1001.99001	2121

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EXAMINER
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BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 07/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

10/065,245

Applicant(s)

WINDBERGS, WERNER J.

Examiner

Thomas J. Brahan

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 and 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

1. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.

2. Claims 1-14 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For example:

- a. In claim 1, line 9, the term "said second frame depth" lacks antecedent basis within the claim. Line 7 of claim 1 provides a basis for a beam's depth, but this is not the same as the frame's depth.
- b. In claim 1, line 13, the term "said winch", two occurrences, lacks antecedent basis within the claims.
- c. Claims 4 and 11 are confusing as they recite a second plurality of rollers, when the claimed combination in these claims do not include a first plurality of rollers. In a similar manner claims 6 and 14 are confusing as they recite a third plurality of rollers, when the claimed combination of these claims does not include first and second pluralities of rollers. Is applicant indirectly including (claiming) the other rollers in these claims? Note that claims 4, 6, 11 and 14 depend directly from their independent claims, not from the claims that provide a basis for the other pluralities of rollers.
- d. In claim 8, line 10 and 11, the term "said first frame vertical extension" lacks antecedent basis within the claim. Line 8 of claim 8 provides a basis for a vertical extension for a pair of beams, but this is not the same as the frame's vertical extension.
- e. In claim 8 in lines 14 and 15, the term "said winch" lacks antecedent basis within the claims.

3. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

4. Claims 1 and 2, as best understood, are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Black in view of Kucharczyk et al. Figures 8-10 of Black show a crane with a first frame (98a, 98b), a second frame (104, 104) and a winch that does not extend below other lower portions of the second frame. It varies from claim 1 by being used in truck, instead of in a standardized container. Kucharczyk et al shows a similar crane and teaches that it can be used in a truck or in a standardized container, see the first two lines of the Abstract. It would have been obvious to one of ordinary skill in the art to modify the crane of Black by using it in a standardized shipping container instead in a truck, as these are art recognized equivalents, as taught by Kucharczyk et al. The first frame (98a, 98b) slides outwardly of the interior of the container, as recited in claim 2.

5. Claims 3-7, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Black in view of Kucharczyk et al, as applied above to claims 1 and 2, and further in view of Dunbar US 4,425,071. Black, as modified, shows the basic claimed crane apparatus but varies from the claims by not showing rollers for the various sliding surfaces. Dunbar US 4,425,071 shows a similar crane apparatus with rollers (21, 23, 103) for supporting the first frame and rollers (49, 51, 63) supporting the second frame. It would have been obvious to one of ordinary skill in the art to modify the crane apparatus of Black by providing it with rollers, to smoothly support the first and the second frame, as taught by Dunbar US 4,425,071.

6. Claims 8 and 9, as best understood, are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Black in view of Kucharczyk et al, as applied above to claim 1, and further in view of Wilke. Black, as modified above, shows the basic claimed crane, but varies from claim 8 by using I-beams for the tracks instead of angle irons. Wilke shows a similar overhead track system and teaches using angle irons instead of I-beams to reduce the weight of the tracks, see the first paragraph of the Description Of The Invention.


It would have been obvious to one of ordinary skill in the art to modify the crane of Black by using angle irons for the tracks instead of I-beams, to reduce the weight of the tracks, as taught by Wilke.

7. Claims 10-14, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Black in view of Kucharczyk et al and Wilke, as applied above to claims 8 and 9, and further in view of Dunbar US 4,425,071. Black, as modified, shows the basic claimed crane apparatus but varies from the claims by not showing rollers for the various sliding surfaces. Dunbar US 4,425,071 shows a similar crane apparatus with rollers (21, 23, 103) for supporting the first frame and rollers (49, 51, 63) supporting the second frame. It would have been obvious to one of ordinary skill in the art to modify the crane apparatus of Black by providing it with rollers, to smoothly support the first and the second frame, as taught by Dunbar US 4,425,071.

8. Applicant argues in the amendment filed April 15 2003, that the claims vary from the Black reference, as applicant has a single beam. However, the phrase "having a beam" in line 7 of claim 1, does not limit the claimed combination to a single beam. It only requires that the reference must have at least one such beam. Applicant's remaining remarks in the amendment have been considered but are deemed moot in view of the above rejections. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. An inquiry concerning this action should be directed to Examiner Thomas J. Brahan at telephone number (703) 308-2568 on Mondays through Fridays from 9:30-7:00 EST. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for Technology Center 3600 is (703) 305-7687.

  
THOMAS J. BRAHAN  
PRIMARY EXAMINER